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TO : Commissioner for Patents
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FROM : Oleg F. Kaplun, Esq. of Fay Kaplun & Marcin, LLP

DATE : November 27, 2007

SUBJECT : U.S. Patent Appln. Serial No. 09/840,209
For *System and Method for Storing Digital Broadcast Data*
Phillips Ref.: US010191

NUMBER OF PAGES INCLUDING COVER : 20

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Attorney Docket No. US 010191

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Lu
Serial No.	:	09/840,209
Filed	:	April 23, 2001
Title	:	System and Method for Storing Digital Broadcast Data
Group Art Unit	:	2165
Examiner	:	Vincent F. Boccio
Confirmation No.		3948

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By: Oleg F. Kaplun, (Reg. No. 45,559) Date: November 27, 2007

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In support of the Notice of Appeal filed on August 27, 2007, transmitted herewith please find an Appeal Brief for filing in the above-identified application. Applicant hereby requests a one (1) month extension. Please charge the Credit Card of **Fay Kaplun & Marcin, LLP** in the amount of $630.00 (PTO-Form 2038 is enclosed herewith). The Commissioner is hereby authorized to charge the **Deposit Account of Fay Kaplun & Marcin, LLP NO. 50-1492** for any additional required fees. A copy of this paper is enclosed for that purpose.

Respectfully submitted,

Dated: November 27, 2007

By: _____
Oleg F. Kaplun, Reg. 45,559

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Serial No.: 09/840,209
Attorney Docket No.: US 010191

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	
Lu	
Serial No.: 09/840,209	Group Art Unit: 2165
Filed: April 23, 2001	Examiner: Vincent F. Boccio
For: SYSTEM AND METHOD FOR STORING DIGITAL BROADCAST DATA	**Board of Patent Appeals and Interferences**
Confirmation No.: 3948	

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Alexandria, VA 22313-1450

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

In support of the Notice of Appeal filed on August 27, 2007, and pursuant to 37 C.F.R. § 41.37, Appellants present this appeal brief in the above-captioned application.

This is an appeal to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 1-20 in the Final Office Action dated May 25, 2007 as clarified in the Advisory Action dated August 7, 2007. The appealed claims are set forth in the attached Claims Appendix.

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02 FC:1402 510.00 OP

1. Real Party in Interest

This application is assigned to Koninklijke Philips Electronics N.V., the real party in interest.

2. Related Appeals and Interferences

There are no other appeals or interferences that would directly affect, be directly affected, or have a bearing on the instant appeal.

3. Status of the Claims

Claims 1-20 have been rejected in the Final Office Action. The final rejection of claims 1-20 is being appealed.

4. Status of Amendments

All amendments submitted by Appellants have been entered.

5. Summary of Claimed Subject Matter

The present invention, as recited in independent claim 1, is directed to a data storage apparatus within a local broadcast facility 110 for downloading data from datacast streams 300 transmitted by a television broadcast system 121 to a plurality of similar data storage apparatuses. The data storage apparatus comprises a storage medium 170, a controller 175, and a transmission device 185. (See Specification, p. 14, ll. 11-16; Fig. 1.) The storage medium 170 stores, within the local broadcast facility, selected portions of the transmitted datacast stream 300. (See id., p. 14, ll. 14-22; Fig. 1.) The controller 175 receives a first datacast stream 300 transmitted by the television broadcast system 121 and detects therein a plurality of datacast blocks BB, MB1, MB2, MB3, UB1, UB2, UB3, UB4... UBn. (See id., p. 15, ll. 14-18; Figs. 1, 3.) The controller 175 employs a first content parameter associated with a first one of the datacast blocks BB with at least one subscriber-specific parameter 172 associated with said data storage apparatus. (See id., p. 15, ll. 14-18; Figs. 1, 3.) The controller, in response to a determination that the first content parameter matches said at least one subscriber-specific parameter 172, stores the first datacast block BB in said storage medium 170. (See id.,

p. 15, ll. 14-18; Figs. 1-3.) The transmission device 185 transmits the first datacast 300 in accordance with the first content parameter. (See id., p. 15, l. 19 – p. 16, l. 5; Fig. 1.)

The present invention, as recited in independent claim 9, is directed to a method for downloading data from datacast streams 300 transmitted by a television broadcast system 121 to a plurality of data storage apparatuses 172, 174, 176 within a local broadcast facility 110. The first step is to receive a first datacast stream 300 at the local broadcast facility 110 transmitted by the television broadcast system 121. (See id., p. 15, ll. 14-18; Figs. 1, 3.) The second step is to detect, within the first datacast stream 300, a plurality of datacast blocks BB, MB1, MB2, MB3, UB1, UB2, UB3, UB4... Ubn at the local broadcast facility 110. (See id., p. 15, ll. 14-18; Figs. 1, 3.) The third step is to compare, at the local broadcast facility 110, a first content parameter associated with a first one of the datacast blocks BB with at least one subscriber-specific parameter associated with a first one of the data storage apparatuses 172. (See id., p. 15, ll. 14-18; Figs. 1, 3.) The fourth step is, in response to a determination that the first content parameter matches the at least one subscriber-specific parameter, storing the first datacast block BB in a storage medium associated with the first data storage apparatus 172. (See id., p. 15, ll. 14-18; Figs. 1, 3.) The last step is to transmit, at the local broadcast facility 110, said first datacast 300in accordance with said first content parameter. (See id., p. 15, l. 19 – p. 16, l. 5; Fig. 1.)

The present invention, as recited in independent claim 17, is directed to a television broadcast system 110 capable of transmitting datacast streams 300 retained on a plurality of data storage apparatuses capable of capturing data in datacast streams 300. Said television broadcast system 110 comprises a data retrieval controller 160 and a transmission controller 175. (See id., p. 14, ll. 11-16; Fig. 1.) The data retrieval controller 160 is capable of accessing a plurality of data sources 121, 122, 123 and retrieving from each of said plurality of data sources 121, 122, 123, web page data associated with said each of said plurality of data sources 121, 122, 123. (See id., p. 15, ll. 14-18; Fig. 1.) Then, selectively storing said retrieved web page data in either a broadcast block queue 172, a multicast block queue 174 or a unicast block queue 176 within a memory 170 as a plurality of transmission queues. (See id., p. 15, ll. 14-18; Fig. 1.) The transmission controller 175 is capable of causing a first 172 of said plurality of transmission queues 172, 174, 176 to be transmitted in broadcast transmission receivable by

all of said plurality of data storage apparatuses 141, 142, 143. (See id., p. 15, l. 19 – p. 16, l. 5; p. 19, ll. 2-7; Figs. 1, 3.) The Transmission control 175 is further capable of causing a second 174 of said plurality of transmission queues 172, 174, 176 to be transmitted in a multicast transmission; wherein, selected portions of web page data in said second transmissions queue 174 are receivable by only selected subgroups of said plurality of data storage apparatuses 141, 142, 143. (See id., p. 15, l. 9 – p. 16, l. 5; p. 19, ll. 7-19; Figs. 1, 3.)

6. Grounds of Rejection to be Reviewed on Appeal

I. Whether claims 1-20 are unpatentable under 35 U.S.C. § 103(a) over Motorola "Integrated Data-casting Solutions for Digital TV" June 1999 (hereinafter "Motorola").

II. Whether claims 1-20 are unpatentable under 35 U.S.C. § 103(a) over U.S. Patent Publication No. 2005/0111823 to Dureau (hereinafter "Dureau") in view of U.S. Patent Publication No. 2004/0230236865 to Ullman et al. (hereinafter "Ullman").

7. Argument

I. The Rejection of Claims 1-20 Under 35 U.S.C. § 103(a) Over Motorola Should Be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 1-20 under 35 U.S.C. § 103(a) as being unpatentable over Motorola. (See 05/25/07 Office Action, p. 6).

Motorola describes a datacasting network, which makes broadcasts or selected portions of broadcasts available to computer users conditionally on the basis of subscriptions, demographics, or user inquiry. (See Motorola, p. 4). According to the Motorola reference, information is received and stored by a base station. Information is then branded as to its type, e.g., news, finance, sports, or technology. Selected portions of the data contained in the base

station are then broadcast to the user's PC. Datacasting files stored in the PC hard drive can be manipulated from PC workstations to integrate the data into templates carrying a local station brand to identify it with a community or with a sponsor. (See Motorola p. 6, par. 4). Motorola further discloses an entitlement control process by which subscription programs are accessible to subscribers if certain conditional access criteria are met. (See Motorola p. 8, par. 2). The criteria divide the datacast into individually access-controlled data segments that can be used to provide different levels of service to the subscribers (i.e., basic data services are free, but a data service augmented with real time streaming video is offered at a premium). (See Motorola p. 8, par. 2). Once a service level is assigned to the datacast segment (i.e., a data flag), the subsequent encryption of that segment forces the subscriber to have the proper authorization to receive the service. (See Motorola p. 8, par. 2).

B. Motorola Does Not Disclose Wherein Said Controller Employs A First Content Parameter Associated With A First One Of Said Datacast Blocks With At Least One Subscriber-Specific Parameter Associated With Said Data Storage Apparatus And Wherein Said Controller, In Response To A Determination That Said First Content Parameter Matches Said At Least One Subscriber-Specific Parameter, Stores Said First Datacast Block In Said Storage Medium As Recited In Claim 1.

The Examiner asserts that the recitation of "wherein said controller employs a first content parameter associated with a first one of said datacast blocks with at least one subscriber-specific parameter associated with said data storage apparatus and wherein said controller, in response to a determination that said first content parameter matches said at least one subscriber-specific parameter, stores said first datacast block in said storage medium" of claim 1 is taught by Motorola. Specifically, the Examiner states that Motorola's teaching of "wherein the controller determines based on branding and user profiles and performs targeting with a processor or controller is based on a user profile" is analogous to the above recitation of claim 1. (See 5/25/07 Office Action, p. 7). This, however, is incorrect.

The system in Motorola only brands the content based on the type of data such as news, finance, sports, and technology. This branding is done at the broadcast facility and is not based at all on a user profile. (See Motorola, p. 6). The user profile of Motorola, discussed on page 5, and elaborated on page 11, is a filter to broadcast only that which the user wants, from

the entire cache at the local broadcast facility. It is not used at all in the branding process. That is, Motorola receives datacast information and stores almost all of the received information in the local broadcast server, with Motorola being silent as to what happens to the remaining information. Specifically, Motorola states "[m]ost of the content is cached on a server where it can be branded and scheduled for broadcast." (See Motorola, p. 6). In Motorola, selected portions of the entire base station memory is then transmitted to the user based on their conditional access. That is, Motorola states, "but the value of the service to the individual users may be enhanced if just portions of the datacasts that they want are delivered to their PC's hard drive." (See Motorola, p. 7).

In contrast, claim 1 recites a controller that "employs a first content parameter associated with a first one of said datacast blocks with at least one subscriber-specific parameter associated with said data storage apparatus and... in response to a determination that said first content parameter matches said at least one subscriber-specific parameter, stores said first datacast block in said storage medium" and "a transmission device within the local broadcast facility configured to transmit said first datacast in accordance with said first content parameter." Thus, selected portions of the incoming datacast are stored at the local broadcast facility, based on user-specific needs. Once the information has been stored, the entirety of the contents of the local broadcast storage medium is transmitted to the user. The local broadcast station does not store the entire content of the datacast, as is the case in Motorola. Thus, it is respectfully submitted that Motorola, does not teach or suggest the limitations of claim 1. Therefore, Applicants submit that claim 1 is patentable over Motorola. Because claims 2-8 depend from and, therefore, include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the same reasons stated above with respect to claim 1.

Independent claim 9 recites, "comparing at the local broadcast facility a first content parameter associated with a first one of the datacast blocks with at least one subscriber-specific parameter associated with a first one of the data storage apparatuses. Applicants submit that claim 9 is allowable for at least the same reasons stated above with respect claim 1. Because claims 10-16 depend from and, therefore, include all the limitations of claim 9, it is respectfully submitted that these claims are also allowable for at least the same reasons stated above with respect to claim 9.

Independent claims 17 recites "selectively storing said retrieved web page data in either a broadcast block queue, a multicast block queue or a unicast block queue within a memory as a plurality of transmission queues." Applicants submit that this claim is allowable for at least the reasons stated above with respect to claim 1. Because claims 18-20 depend from and, therefore, include all the limitations of claim 17 it is respectfully submitted that these claims are also allowable for at least the reasons stated above with respect to claim 17.

II. The Rejection of Claims 1-20 Under 35 U.S.C. § 103(a) Over Dureau In View Of Ullman Should Be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 1-20 under 35 U.S.C. § 103(a) as being unpatentable over Dureau in view of Ullman. (See 05/25/07 Office Action, p. 6).

Dureau teaches a smart toy that can track past activities of the toy and/or the user and can build a locally stored profile of these activities in the toy. (See Dureau, p. 7, par. [0061]). As an input device, the smart toy can download data to a broadcast station as long as there is a return path between the broadcast station and receiving station. (See Dureau, p. 7, par. [0062]). Dureau also teaches that user information, such as profile data stored on the toy, may also be uploaded to the receiving station or the broadcast station for filtering downloads or customizing program content to be displayed on the television. (See Dureau, p. 7, par. [0063]).

Ullman describes a computer-based system for receiving URL's to be entered and for the Web pages to be synchronized for display on a television screen. (See Ullman, pp. 2-3, par. [0027]). The system of Ullman enables personalization in the form of URLs specific to each user's unique profile stored in the database 78. (See Ullman, p. 4, par. [0041]). The personalized URLs are uniquely relevant to the user's interests, demographics, history, or behavior in the system and may be automatically chosen by an algorithm (such as a filter). (See Ullman, p. 4, par. [0041]). However, the Ullman system merely fetches personalized URL's to display Web content simultaneously with video. (See Ullman, p. 5, par. [0051], [0054]).

B. Dureau Does Not Disclose Wherein Said Controller Employs A First Content Parameter Associated With A First One Of Said Datacast Blocks

With At Least One Subscriber-Specific Parameter Associated With Said Data Storage Apparatus And Wherein Said Controller, In Response To A Determination That Said First Content Parameter Matches Said At Least One Subscriber-Specific Parameter, Stores Said First Datacast Block In Said Storage Medium As Recited In Claim 1.

Similar to the discussion of Motorola above, Dureau discloses a receiver station that receives and stores all data, and sends part of the stored data to the user. Dureau states that, "[t]he toy can be configured to filter the broadcast data downloaded by the receiving station and to accept only that programming which meets the filtering criteria. The filtering of the downloaded data may be based on user selections, or it may be based on user preferences stored in the toy itself." (See Dureau par [0012]). Thus, the receiving station of Dureau stores all possible data, and transmits part of its contents, based on the user profile, to the toy. In contrast, claim 1 recites, "in response to a determination that said first content parameter matches said at least one subscriber-specific parameter, stores said first datacast block in said storage medium." That is, only content that matches subscriber-specific parameters is stored in the recited storage medium. Ullman is silent with respect to the storage of data. Thus, it is respectfully submitted that neither Dureau nor Ullman, alone or in combination, teaches or suggests the limitations of claim 1. Therefore, Applicants submit that claim 1 is patentable over Dureau in view of Ullman. Because claims 2-8 depend from and, therefore, include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the same reasons stated above with respect to claim 1.

Independent claim 9 recites, "comparing at the local broadcast facility a first content parameter associated with a first one of the datacast blocks with at least one subscriber-specific parameter associated with a first one of the data storage apparatuses. Applicants submit that claim 9 is allowable for at least the same reasons stated above with respect claim 1. Because claims 10-16 depend from and, therefore, include all the limitations of claim 9, it is respectfully submitted that these claims are also allowable for at least the same reasons stated above with respect to claim 9.

Independent claims 17 recites "selectively storing said retrieved web page data in either a broadcast block queue, a multicast block queue or a unicast block queue within a

memory as a plurality of transmission queues." Applicants submit that this claim is allowable for at least the reasons stated above with respect to claim 1. Because claims 18-20 depend from and, therefore, include all the limitations of claim 17 it is respectfully submitted that these claims are also allowable for at least the reasons stated above with respect to claim 17.

8. **Conclusion**

For the reasons set forth above, Appellants respectfully request that the Board reverse the rejection of the claims by the Examiner under 35 U.S.C. § 103(a), and indicate that claims 1-20 are allowable.

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CLAIMS APPENDIX

1. (Previously Presented) A data storage apparatus within a local broadcast facility for downloading data from datacast streams transmitted by a television broadcast system to a plurality of similar data storage apparatuses, said data storage apparatus comprising:

a storage medium within the local broadcast facility for storing selected portions of said transmitted datacast streams;

a controller within the local broadcast facility capable of receiving a first datacast stream transmitted by said television broadcast system and detecting therein a plurality of datacast blocks, wherein said controller employs a first content parameter associated with a first one of said datacast blocks with at least one subscriber-specific parameter associated with said data storage apparatus and wherein said controller, in response to a determination that said first content parameter matches said at least one subscriber-specific parameter, stores said first datacast block in said storage medium; and

a transmission device within the local broadcast facility configured to transmit said first data cast in accordance with said first content parameter.

2. (Original) The data storage apparatus as set forth in Claim 1 wherein said first datacast block comprises a broadcast block receivable by each of said plurality of similar data storage apparatuses.

3. (Original) The data storage apparatus as set forth in Claim 1 wherein said first datacast block comprises a multicast block receivable by a sub-group of said plurality of similar data storage apparatuses.

4. (Original) The data storage apparatus as set forth in Claim 3 wherein said first content parameter comprises a multicast group identifier with associated with said data storage apparatus.

5. (Original) The data storage apparatus as set forth in Claim 1, wherein said first datacast block comprises a unicast block receivable only by said storage apparatus.

6. (Original) The data storage apparatus as set forth in Claim 5, wherein said first content parameter comprises a unique address associated with said data storage apparatus.

7. (Original) The data storage apparatus as set forth in Claim 1 wherein said first datacast stream comprises webpage data.

8. (Original) The data storage apparatus as set forth in Claim 1 wherein said first datacast stream comprises Internet protocol (IP) data.

9. (Previously Presented) A method for downloading data from datacast streams transmitted by a television broadcast system to a plurality of data storage apparatuses within a local broadcast facility, the method comprising the steps of:

receiving a first datacast stream at the local broadcast facility transmitted by the television broadcast system;

detecting in the first datacast stream a plurality of datacast blocks at the local broadcast facility;

comparing at the local broadcast facility a first content parameter associated with a first one of the datacast blocks with at least one subscriber-specific parameter associated with a first one of the data storage apparatuses;

in response to a determination that the first content parameter matches the at least on subscriber-specific parameter, storing the first datacast block in a storage medium associated with the first data storage apparatus; and

transmitting at the local broadcast facility said first data cast in accordance with said first content parameter.

10. (Original) The method as set forth in Claim 9 wherein the first datacast block comprises a broadcast block receivable by each of the plurality of similar data storage apparatuses.

11. (Original) The data storage apparatus as set forth in Claim 9 wherein the first datacast block comprises a multicast block receivable by a sub-group of the plurality of similar data storage apparatuses.

12. (Original) The data storage apparatus as set forth in Claim 11 wherein the first content parameter comprises a multicast group identifier with associated with the data storage apparatus.

13. (Original) The data storage apparatus as set forth in Claim 9, wherein the first datacast block comprises a unicast block receivable only by the storage apparatus.

14. (Original) The data storage apparatus as set forth in Claim 13, wherein the first content parameter comprises a unique address associated with the data storage apparatus.

15. (Original) The data storage apparatus as set forth in Claim 9 wherein the first datacast stream comprises webpage data.

16. (Original) The data storage apparatus as set forth in Claim 9 wherein the first datacast stream comprises Internet protocol (IP) data.

17. (Currently Amended) A television broadcasting system capable of transmitting datacast streams retained on a plurality of data storage apparatuses capable of capturing data in datacast streams, said television broadcast system comprising:

a data retrieval controller capable of accessing a plurality of data sources and retrieving from each of said plurality of data sources web page data associated with said each of said plurality of data sources and selectively storing said retrieved web page data in either a broadcast block queue, a multicast block queue or a unicast block queue within a memory as a plurality of transmission queues; and

a transmission controller capable of causing a first of said plurality of transmission queues to be transmitted in a broadcast transmission receivable by all of said plurality of data storage apparatuses and further capable of causing a second of said plurality

of transmission queues to be transmitted in a multicast transmission, wherein selected portions of web page data in said second transmission queue are receivable by only selected subgroups of said plurality of data storage apparatuses.

18. (Original) The television broadcasting system as set forth in Claim 17 wherein said transmission controller is further capable of causing a third of said plurality of transmission queues to be transmitted in a unicast transmission, wherein selected portions of web page data in said third transmission queue are receivable only by individual ones of said plurality of data storage apparatuses.

19. (Original) The television broadcasting system as set forth in Claim 18 wherein transmission controller causes said first, second and third transmission queues to be transmitted at predetermined times of the day.

20. (Original) The television broadcasting system as set forth in Claim 18 wherein a first selected portion of web page data in said third transmission queue comprises a unique identifier associated with a first data storage apparatus capable of receiving said first selected portion of web page data in said third transmission queue.

EVIDENCE APPENDIX

No evidence has been entered or relied upon in the present appeal.

RELATED PROCEEDING APPENDIX

No decisions have been rendered regarding the present appeal or any proceedings related thereto.